

VZCZCXRO8281
PP RUEHDBU RUEHFL RUEHKW RUEHLA RUEHROV RUEHSR
DE RUEHAK #2414/01 2691328
ZNY CCCCC ZZH
P 261328Z SEP 07
FM AMEMBASSY ANKARA
TO RUEHC/SECSTATE WASHDC PRIORITY 3839
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE
RUEAIIA/CIA WASHDC
RHEFDIA/DIA WASHDC
RUEKJCS/JOINT STAFF WASHDC//J-3/J-5//
RHEHAAA/NSC WASHDC
RUEUITH/ODC ANKARA TU
RUEKJCS/SECDEF WASHDC
RUEUITH/TLO ANKARA TU
RUEHAK/USDAO ANKARA TU

C O N F I D E N T I A L SECTION 01 OF 03 ANKARA 002414

SIPDIS

SIPDIS

E.O. 12958: DECL: 09/20/2017

TAGS: [PGOV](#) [PHUM](#) [TU](#)

SUBJECT: TURKEY: HEADSCARF BAN DOMINATES INITIAL DEBATE
OVER CONSTITUTIONAL REVISIONS

Classified By: POLITICAL COUNSELOR Janice Weiner FOR REASONS 1.4(b),(d)

11. (C) Summary and comment. The debate over the ruling Justice and Development Party's (AKP) proposed revisions to Turkey's 25-year old constitution is turning increasingly shrill, with particular focus on whether to lift the headscarf ban for university students. The party's delay in releasing the proposal to the public has generated heated criticism of both content and methods. The draft, prepared by an AKP-appointed committee of jurists and academics and recently reviewed by senior AKP members, awaits final approval by PM Erdogan upon his return from UNGA on September 129.

12. (C) Summary/comment cont'd. While Turks across the political spectrum agree the flawed 1982 constitution, drafted by the military after Turkey's 1980 coup, needs substantial revision, many are wary of AKP motives, particularly given a perceived lack of transparency in preparing the draft. Initial indications are that the revisions appear consistent with liberal democratic principles and would strengthen Turkey's democracy. But the debate is polarizing over contentious issues such as the headscarf ban -- a restriction currently imposed by regulation, not the constitution -- and religious and ethnic minority rights. AKP has the seats to push the proposal through parliament but wants to win support from a broader coalition to give the new constitution greater credibility. Failure to seek consensus was a precipitating factor in the April/May presidential election crisis. AKP's credibility hurdle is almost impossibly high with the staunchest of secularists, but genuine outreach will count with the public at large; how Erdogan and AKP play this will be an important indicator of how this government plans to do business. Judging from reactions to a leaked copy of the draft, they will need a skilfull strategy to manage the ongoing debate over AKP's true intentions and Turkey's future. End summary and comment.

INQUIRING MINDS WANT TO KNOW

13. (U) PM Erdogan is following through on his campaign promise to revise Turkey's military-drafted 1982 constitution as the most effective way to introduce genuine reforms. The initial push to shift to direct presidential elections - a reform package Turks will vote on in an October 21 referendum - has been nearly eclipsed by the drive to create a "civilian" constitution that focuses on individual rights and redistributes appointment powers. AKP leaders describe the proposal as a move from a constitution that protects the republic to a "pro-freedom" approach that protects democracy.

The AKP-appointed committee of five independent experts reviewed its draft with 11 senior AKP members September 16-17 before submitting the proposal to the party's Central Executive Board on September 19 for approval before public release. The draft retains the present first four "unamendable" articles, which describe the Republic as a democratic, secular and social state governed by the rule of law. PM Erdogan reportedly will make the final decision on controversial issues, including the headscarf ban and language and citizenship rights, upon his return September 29 from UNGA.

FOCUS ON HEADSCARF BAN AND PROCESS

¶4. (U) The delay in getting the document out for public comment has led to criticism of AKP's lack of transparency and renewed speculation about AKP's objectives. Working off a leaked, unofficial version, critics, including Land Forces Commander General Basbug (septel), have seized on the headscarf ban and religious and ethnic minority rights as signs of AKP's intent to undermine the secular Republic. Higher Education Board (YOK) chairman Erdogan Tezic, a staunch secularist, claimed any move to lift the ban, in place as a YOK regulation since 1982, would be illegal, in part because of a European Court of Human Rights (ECHR) decision upholding Turkey's right to impose the restriction. Others argued that allowing headscarves on campus would lead to increased pressure on all women to cover and open the way for the government to implement an Islamist agenda. Supreme Court prosecutor Abdurrahman Yalcinkaya warned that lifting the ban would lead to "chaos and polarization", undermine Turkey's political system and spark a wave of public anger and hatred. Former Court of Appeals justice Sami Selcuk

ANKARA 00002414 002 OF 003

spoke for many when he told us the headscarf issue should be handled by regulation, not a constitutional provision.

¶5. (U) Opposition Republican People's Party (CHP) and others contend that AKP's reform efforts were not transparent or participatory. CHP deputy leader Kemal Kilicdaroglu expressed doubts that the draft will be open to discussion, maintaining that PM Erdogan intends to impose his "hidden" agenda through the reforms. The YOK Rectors Committee issued a statement September 19 charging that the draft, which would limit YOK's power, is undemocratic because it was prepared by only one party. The statement called for an immediate halt to the process, arguing that the public's input will be limited to commenting on AKP's draft. YOK Chairman Tezic discussed the committee's concerns with President Gul on September 25; in a speech at Hacettepe University later that day, Gul acknowledged that universities cannot be expected to remain silent on critical issues. The Turkish Confederation of Employers' Union (TISK) also demanded that work on the reforms be suspended until a national consensus can be assured.

¶6. (C) Many who support the need for constitutional reform have qualms about AKP's approach. In contrast to CHP, Nationalist Action Party (MHP) General Secretary Cihan Pacaci agrees that a more democratic, civilian constitution is needed and supports many of the proposed changes, including lifting the headscarf ban, restructuring YOK and ensuring more equitable citizenship rights. But, he added, MHP remains suspicious of AKP's "hidden Islamic agenda" and urges a wide consensus on amendments to enhance the new constitution's integrity as a social contract. Democratic Left Party (DSP) MP Huseyin Pazarci expressed concerns about AKP's top-down methods, while also acknowledging reforms are needed.

¶7. (C) Business leaders are also stressing the need for consensus to defuse tensions and build trust. Stating that the new constitution should strengthen Turkey's secular, democratic structure and not polarize society, the head of the Turkish Industrialists and Businessmen Association's

(TUSIAD) consultative council, Mustafa Koc, called for a consensus approach. Koc noted that TUSIAD plans to monitor the amendment process as well as the government's response to criticism of the draft. TUSIAD head Arzuhan Yalcindag added that discussing the methodology should not be treated as "secondary" since the country's founding principles are involved. She proposed first amending Penal Code Article 301 (insulting Turkishness) and pushing through other democratic reforms to allow for a truly free and open debate on constitutional changes.

A LONG ROAD TO REFORM

¶8. (U) As he left for New York September 21, Erdogan slammed critics, telling the rectors in particular to "mind their own business." He said Turkey needs to solve the headscarf "problem", noting that, "The right to higher education cannot be restricted because of what a girl wears." Erdogan complained that the constitutional reform effort was being reduced to a single issue: the headscarf ban. Fears about the substance of the reforms and accusations that AKP's methods were not open, inclusive and transparent were, he said, unfounded. He emphasized that Turkey was at the beginning of a lengthy process that would include maximum public debate before the proposal is submitted to parliament. "We are drafting a constitution for Turkey, not for the AK Party," he told the press.

¶9. (C) In a recent meeting with us, the lead drafter, Prof. Ergun Ozbudun, also countered complaints of delay and secrecy. Ozbudun, a highly respected constitutional law scholar, explained that AKP is taking a phased approach: now that a draft has been approved, the next phase of extended public debate can begin. Phase three will be AKP's formal submission of the proposal to parliament for action. The final step would be a public referendum. He admitted that it wasn't clear how AKP would solicit or incorporate public input, but stressed that party leaders want the "most participatory, transparent review" possible. "It's in AKP's interest to have the constitution adopted by the largest majority," he noted, adding he believes AKP is willing to take constructive proposals into consideration. This tracks

ANKARA 00002414 003 OF 003

with what senior AKPers, including those involved in the drafting, have told us since spring.

¶10. (C) Ozbudun, who represented the GOT in the case that closed the Islamist Refah Party in 2001, told us AKP leaders asked him to head the drafting committee because he had no ties to Islamists and would be a "reassuring" choice as a well-regarded, independent jurist. He noted that leftist and liberals who had called for constitutional reform for 25 years now were objecting, simply because it is an AKP initiative. Ozbudun confirmed that AKP made no attempt to influence or direct the committee's work. "Crazy prejudices" are behind the idea that the draft lays the groundwork for an Islamic Republic, Ozbudun said. "This draft is as strongly committed to secularism as the present constitution," he stated.

¶11. (C) Ozbudun maintained that a constitutional convention -- an approach suggested by TUSIAD and others -- is not allowed under Turkey's current system; parliament alone has the authority to make revisions. Former Appeals Court justice Selcuk, who believes a new constitution is needed, agrees but told us separately that an article to this effect should be adopted and a constitutional assembly elected to draft a new text. Selcuk is looking to President Gul to propose such an approach but doubts Gul has the independence or mindset to do so. AKP can push through its draft rather than organize a broader assembly, but it won't produce the lasting constitution Turkey needs, Selcuk said; it will be tainted as a "party" document. According to Selcuk, at base the current debate is fundamentally about continuing concerns about AKP's true intentions, making a consensus approach

essential. "No one is listening to each other in Turkey," Selcuk lamented, adding, "Turks can't debate; it always turns into a fight."

Visit Ankara's Classified Web Site at
<http://www.state.sgov.gov/p/eur/ankara/>

WILSON